

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-329-GKF(SAJ)
)	
TYSON FOODS, INC., et.al.,)	
)	
Defendants.)	

**DEFENDANTS’ JOINT REPLY ON MOTION TO EXPAND THE TIME TO RESPOND
TO THE STATE’S MOTION TO EXPAND THE DISCOVERY PERIOD**

COME NOW Defendants, and for their Reply on their Joint Motion to Expand the Time to Respond to State of Oklahoma’s Motion to Expand the Discovery Period and Integrated Brief (DKT 1418) (DKT 1443)(DKT 1438), state as follows:

The plaintiff has objected to defendants’ request for an extension of time for four reasons. First, the plaintiff states that the Court already indicated that the State’s Motion to Expand Discovery would be considered pursuant to the regular docket. This is a mischaracterization of the Court’s comments. The Court was explaining that it would not rule on an oral motion and that the plaintiff would need to file a written motion, thereby giving the defendants an appropriate venue to respond. The Court was not stating that no extensions would be allowed. Additionally, provision for extensions of time are explicit in Fed. R. Civ. Pro. 6(1)(a) and are, thus, a part of the regular docket. Therefore, this argument is without merit.

Second, the plaintiff argues that granting an extension would prejudice the State in that the disclosure date for experts is April 1, 2008. The plaintiff fails to explain how the resolution of this issue concerning the discovery time period will affect the State’s expert disclosures. Moreover, while the plaintiff argues that production of additional discovery after April 1, if

allowed by the Court, would cause prejudice to their trial preparation, this is a dilemma of their own creation. The State's Motion to Expand Discovery was just filed, nearly three years into the lawsuit and a year after the Court delineated the current time frame. Had they filed it earlier, they might now have more time to review any additional discovery. Furthermore, both sides are equally affected in this respect.

Plaintiff's third argument is that with over forty attorneys working for the defendants, adequate resources to respond to the motion exist. As this Court is well aware, multiple defendants and attorneys do not streamline a case, but complicate it. Each defendant will need to approach the State's motion from its own unique perspective on this issue, and may need to retain expertise in response to the previously undisclosed expert relied upon by the State in its underlying Motion to Expand the Discovery Period. While a motion to expand time, such as the one filed by defendants, may be done jointly, there are much more extensive individual considerations when it comes to substantively responding to the underlying motion by the State. As such, each attorney must confer with his client to determine how the issue will affect the client, individually. The attorney, in turn, must respond in regard to his client's unique situation. While each defendant's unique considerations may be able to be incorporated into one response, to do so will still require extensive consultation among the defense attorneys. Currently, this would require doing so with schedules that are already filled by preparation for the hearing relating to the State's Motion for a Preliminary Injunction.

Finally, the plaintiff takes exception to the defendants' statement that they have attempted to meet and confer on the issue, noting that only one letter was written. It is clear from the contents of the letter, attached as exhibits to the plaintiff's Response, that any additional efforts would be futile – the State refused to discuss the very request being made by way of the

defendants' joint motion. As such, this argument is without merit.

WHEREFORE, defendants request that this Court stay or expand the time to respond to State of Oklahoma's Motion to Expand the Discovery Period until after the hearing on the State's Motion for Preliminary Injunction.

BY: /s/ James M. Graves

James M. Graves (OB #16657)

Gary V. Weeks (*appearing pro hac vice*)

Paul E. Thompson, Jr., (*appearing pro hac vice*)

Woody Bassett (*appearing pro hac vice*)

BASSETT LAW FIRM LLP

221 North College Avenue

P.O. Box 3618

Fayetteville, AR 72702-3618

(479) 521-9996

(479) 521-9600 Facsimile

-and-

Randall E. Rose, OBA #7753

George W. Owens, Esq.

OWENS LAW FIRM, P.C.

234 W. 13th Street

Tulsa, OK 74119

**ATTORNEYS FOR GEORGE'S, INC. and
GEORGE'S FARMS, INC., and for purposes of this
Motion, for all defendants**

John H. Tucker, OBA #9110
Theresa Noble Hill, OBA #19119
Leslie Jane Southerland
Colin Hampton Tucker
RHODES, HIERONYMUS, JONES, TUCKER &
GABLE, PLLC
100 W. Fifth Street, Suite 400 (74103-4287)
P.O. Box 21100
Tulsa, OK 74121-1100
Telephone: (918) 582-1173
Facsimile: (918) 592-3390
-and-
Delmar R. Ehrich
Bruce Jones
Krisann C. Kleibacker Lee
Dara D. Mann
Todd P. Walker
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402
Telephone: (612) 766-7000
Facsimile: (612) 766-1600
**ATTORNEYS FOR CARGILL, INC. and CARGILL
TURKEY PRODUCTION, LLC**

Stephen L. Jantzen, OBA #16247
Patrick M. Ryan, OBA #7864
RYAN, WHALEY, COLDIRON & Shandy, P.C.
119 North Robinson
900 Robinson Renaissance
Oklahoma City, OK 73102
Telephone: (405) 239-6040
Facsimile: (405) 239-6766
-and-
Thomas C. Green, Esq.
Mark D. Hopson, Esq.
Timothy K. Webster, Esq.
Jay T. Jorgensen, Esq.
SIDLEY AUSTIN BROWN & WOOD LLP
1501 K Street, N.W.
Washington, D.C. 20005-1401
Telephone: (202) 736-8700
Facsimile: (202) 736-8711
-and-

Robert W. George, OBA #18562

Michael R. Bond

Erin W. Thompson

KUTAK ROCK LLP

The Three Sisters Building

214 West Dickson Street

Fayetteville, AR 72701-5221

Telephone: (479) 973-4200

Facsimile: (479) 973-0007

**ATTORNEYS FOR TYSON FOODS, INC.; TYSON
POULTRY, INC.; TYSON CHICKEN, INC.; and
COBB-VANTRESS, INC.**

A. Scott McDaniel, OBA # 16460

Nicole M. Longwell, OBA #18771

Philip D. Hixon, OBA #19121

Craig A. Mirkes, OBA #20783

McDANIEL, HIXON, LONGWELL & ACORD, PLLC

320 South Boston Avenue, Suite 700

Tulsa, OK 74103

Telephone: (918) 382-9200

Facsimile: (918) 382-9282

-and-

Sherry P. Bartley (*Appearing Pro Hac Vice*)

MITCHELL, WILLIAMS, SELIG, GAGES &

WOODYARD, P.L.L.C.

425 W. Capitol Avenue, Suite 1800

Little Rock, AR 72201

Telephone: (501) 688-8800

ATTORNEYS FOR PETERSON FARMS, INC.

Robert E. Sanders

E. Stephen Williams

YOUNG WILLIAMS P.A

2000 AmSouth Plaza

P.O. Box 23059

Jackson, MS 39225-3059

Telephone: (601) 948-6100

Facsimile: (601) 355-6136

-and-

Robert P. Redemann, OBA #7454

Lawrence W. Zeringue, OBA #9996

David C. Senger, OBA #18830

**PERRIN, McGIVERN, REDEMANN, REID, BERRY
& TAYLOR, P.L.L.C.**

P.O. Box 1710

Tulsa, OK 74101-1710
Telephone: (918) 382-1400
Facsimile: (918) 382-1499
**COUNSEL FOR CAL-MAINE FOODS, INC.
and CAL-MAINE FARMS, INC.**

R. Thomas Lay, OBA #5297
KERR, IRVINE, RHODES & ABLES
201 Robert S. Kerr Ave., Suite 600
Oklahoma City, OK 73102
Telephone: (405) 272-9221
Facsimile: (405) 236-3121
-and-
Jennifer S. Griffin (*appearing pro hac vice*)
David G. Brown (*appearing pro hac vice*)
LATHROP & GAGE, L.C.
314 East High Street
Jefferson City, MO 65101
Telephone: (573) 893-4336
Facsimile: (573) 893-5398
ATTORNEYS FOR WILLOW BROOK FOODS, INC.

John R. Elrod, Esq.
Vicki Bronson, OBA #20574
P. Joshua Wisley
CONNER & WINTERS, LLP
211 East Dickson Street
Fayetteville, AR 72701
Telephone: (479) 582-5711
Facsimile: (479) 587-1426
ATTORNEYS FOR SIMMONS FOODS, INC.

CERTIFICATE OF SERVICE

I certify that on the 9th of January, 2008, I electronically transmitted the attached document to the following ECF registrants:

W. A. Drew Edmondson, Attorney General	drew_edmondson@oag.state.ok.us
Kelly Hunter Burch, Assistant Attorney General	kelly_burch@oag.state.ok.us
J. Trevor Hammons, Assistant Attorney General	trevor_hammons@oag.state.ok.us
Robert D. Singletary, Assistant Attorney General	robert_singletary@oag.state.ok.us

Douglas Allen Wilson	doug_wilson@riggsabney.com,
Melvin David Riggs	driggs@riggsabney.com
Richard T. Garren	rgarren@riggsabney.com
Sharon K. Weaver	sweaver@riggsabney.com
Riggs Abney Neal Turpen Orbison & Lewis	

Robert Allen Nance	rnance@riggsabney.com
Dorothy Sharon Gentry	sgentry@riggsabney.com
Riggs Abney	

J. Randall Miller	rmiller@mkblaw.net
David P. Page	dpage@mkblaw.net
Louis W. Bullock	lbullock@mkblaw.net
Miller Keffer & Bullock	

Elizabeth C. Ward	lward@motleyrice.com
Frederick C. Baker	fbaker@motleyrice.com
William H. Narwold	bnarwold@motleyrice.com
Motley Rice	

COUNSEL FOR PLAINTIFFS

Stephen L. Jantzen	sjantzen@ryanwhaley.com
Patrick M. Ryan	pryan@ryanwhaley.com
Paula M. Buchwald	pbuchwald@ryanwhaley.com
Ryan, Whaley & Coldiron, P.C.	

Mark D. Hopson	mhopson@sidley.com
Jay Thomas Jorgensen	jjorgensen@sidley.com
Timothy K. Webster	twebster@sidley.com
Sidley Austin LLP	

Robert W. George	robert.george@kutakrock.com
Michael Bond	michael.bond@kutakrock.com
Kutak Rock LLP	

COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC.; AND COBB-VANTRESS, INC.

R. Thomas Lay
Kerr, Irvine, Rhodes & Ables

rtl@kiralaw.com

Jennifer S. Griffin
Lathrop & Gage, L.C.

jgriffin@lathropgage.com

COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann
Lawrence W. Zeringue
David C. Senger

rredemann@pmrlaw.net
lzingue@pmrlaw.net
dsenger@pmrlaw.net

Perrine, McGivern, Redemann, Reid, Berry & Taylor, PLLC

Robert E. Sanders
E. Stephen Williams
Young Williams P.A.

rsanders@youngwilliams.com
steve.williams@youngwilliams.com

COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

A. Scott McDaniel
Nicole Longwell

smcdaniel@jpm-law.com
nlongwell@jpm-law.com

COUNSEL FOR PETERSON FARMS, INC.

John R. Elrod
Vicki Bronson
Conner & Winters, P.C.

jelrod@cwlaw.com
vbronson@cwlaw.com

Bruce W. Freeman
D. Richard Funk
Conner & Winters, LLLP

bfreeman@cwlaw.com

COUNSEL FOR SIMMONS FOODS, INC.

John H. Tucker
Colin H. Tucker
Theresa Noble Hill
Rhodes, Hieronymus, Jones, Tucker & Gable

jtuckercourts@rhodesokla.com
chtucker@rhodesokla.com
thillcourts@rhodesokla.com

Terry W. West
The West Law Firm

terry@thewestlawfirm.com

Delmar R. Ehrich
Bruce Jones
Krisann Kleibacker Lee
Dara D. Mann
Faegre & Benson LLP

dehrich@faegre.com
bjones@faegre.com
kklee@faegre.com
dmann@faegre.com

COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

Michael D. Graves
D. Kenyon Williams, Jr.
COUNSEL FOR POULTRY GROWERS

mgraves@hallestill.com
kwilliams@hallestill.com

William B. Federman
Jennifer F. Sherrill
Federman & Sherwood

wfederman@aol.com
jfs@federmanlaw.com

Teresa Marks
Charles Moulton
Office of the Attorney General

teresa.marks@arkansasag.gov
charles.moulton@arkansasag.gov

**COUNSEL FOR THE PLAINTIFFS OF ARKANSAS AND THE ARKANSAS NATURAL
RESOURCES COMMISSION**

I also hereby certify that I served the attached documents by United States Postal Service,
proper postage paid, on the following who are not registered participants of the ECF System:

C. Miles Tolbert
Secretary of the Environment
3800 North Classen
Oklahoma City, OK 73118
COUNSEL FOR PLAINTIFFS

Thomas C. Green
Sidley Austin Brown & Wood LLP
1501 K Street NW
Washington, DC 20005
**COUNSEL FOR TYSON FOODS, INC.,
TYSON POULTRY, INC., TYSON
CHICKEN, INC.; AND COBB-
VANTRESS, INC.**

/s/ James M. Graves